UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,543	03/11/2004	Ke Han	13361-072001 / MP0413	7807

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EXAMINER
FOTAKIS, ARISTOCRATIS

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
11/23/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/799,543*	HAN ET AL.
	Examiner	**Art Unit**	
	ARISTOCRATIS FOTAKIS	2611	

*--The **MAILING DATE** of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>09 November 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/CHIEH M FAN/
 Supervisory Patent Examiner, Art Unit 2611

/Aristocratis Fotakis/
 Examiner, Art Unit 2611

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants submit that Cideciyan does not teach of a branch metric generator that generates branch metrics comprising the cross-correlation term, which is referred to as the data-dependent or time varying term. Cideciyan's discloses that the branch metrics are used by an add-compare-select component and are not the same as branch metrics used by a branch metric generator

Examiner submits that Cideciyan teaches of branch metrics in a Viterbi detection. Cideciyan's discloses that the branch metrics are used by an add-compare-select component as being the next step of Viterbi detection in order to get the path metrics The skilled artisan would recognize that the branch metrics where generated or calculated by a device or unit.

Applicants submit that Cideciyan does not describe determining an input sequence of the partial response channel by maximizing cross-correlation of an estimated output sequence with the obtained output sequence. Minimizing the metric of equation 3 in Cideciyan is not equivalent to determining an input sequence of the partial response channel by maximizing cross-correlation of an estimated output sequence with the obtained output sequence, because Cideciyan is still determining the constants.

Examiner submits that equation 3 in Cideciyan has a data dependent term and a constant term. Since the constant never changes, in order to minimize the metric and the only term that changes is the data dependent term (cross correlation with a negative sign), it would be required to maximize the cross-correlation.

Applicants submit that claim 21 uses "means for" language. The Office has failed to comply with this legal requirement, making no effort to identify how the claim language has been interpreted to read on only the structures disclosed in the specification or equivalents thereof.

Examiner submits that the specification or the Figures do not show of any structure for the Viterbi detection. It is not clear from Applicants disclosure if any structures in the Viterbi detection system are used in order to perform the Viterbi method described..